



General Assembly

Bill No. 1600

September Special
Session, 2007

LCO No. 9877

09877_____

Referred to Committee on No Committee

Introduced by:

SEN. WILLIAMS, 29th Dist.

REP. AMANN, 118th Dist.

AN ACT CONCERNING CLEAN CONTRACTING STANDARDS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2009*) For the purposes of
2 sections 1 to 47, inclusive, of this act:

3 (1) "Best value selection" means a contract selection process in which
4 the award of a contract is based on a combination of quality, timeliness
5 and cost factors;

6 (2) "Bid" means an offer, submitted in response to an invitation to
7 bid, to furnish supplies, materials, equipment, construction or
8 contractual services to a state contracting agency under prescribed
9 conditions at a stated price;

10 (3) "Bidder" means a business submitting a bid in response to an
11 invitation to bid by a state contracting agency;

12 (4) "Business" means any individual or sole proprietorship,
13 partnership, firm, corporation, trust, limited liability company, limited

14 liability partnership, joint stock company, joint venture, association or
15 other legal entity through which business for profit or not-for-profit is
16 conducted;

17 (5) "Competitive bidding" means the submission of prices by a
18 business competing for a contract to provide supplies, materials,
19 equipment or contractual services to a state contracting agency, under
20 a procedure in which the contracting authority does not negotiate
21 prices, as set forth in statutes and regulations concerning procurement;

22 (6) "Consultant" means (A) any architect, professional engineer,
23 landscape architect, land surveyor, accountant, interior designer,
24 environmental professional or construction administrator, who is
25 registered or licensed to practice such person's profession in
26 accordance with the applicable provisions of the general statutes, (B)
27 any planner or any environmental, management or financial specialist,
28 or (C) any person who performs professional work in areas including,
29 but not limited to, educational services, medical services, information
30 technology and real estate appraisal;

31 (7) "Consultant services" means those professional services rendered
32 by a consultant and any incidental services that a consultant and those
33 in the consultant's employ are authorized to perform;

34 (8) "Contract" or "state contract" means an agreement or a
35 combination or series of agreements between a state contracting
36 agency or quasi-public agency and a business for:

37 (A) A project for the construction, reconstruction, alteration,
38 remodeling, repair or demolition of any public building, public work,
39 mass transit, rail station, parking garage, rail track or airport;

40 (B) Services, including, but not limited to, consultant and
41 professional services;

42 (C) The acquisition or disposition of personal property;

43 (D) The provision of goods and services, including, but not limited
44 to, the use of purchase of services contracts and personal service
45 agreements;

46 (E) The provision of information technology, state agency
47 information system or telecommunication system facilities, equipment
48 or services;

49 (F) A lease; or

50 (G) A licensing agreement;

51 "Contract" or "state contract" does not include a contract between a
52 state agency or a quasi-public agency and a political subdivision of the
53 state;

54 (9) "Term contract" means the agreement reached when the state
55 accepts a bid or proposal to furnish supplies, materials, equipment or
56 contractual services at a stated price for a specific period of time in
57 response to an invitation to bid;

58 (10) "Contract risk assessment" means (A) the identification and
59 evaluation of loss exposures and risks, including, but not limited to,
60 business and legal risks associated with the contracting process and
61 the contracted goods and services, and (B) the identification,
62 evaluation and implementation of measures available to minimize
63 potential loss exposures and risks;

64 (11) "Contractor" means any business that is awarded, or is a
65 subcontractor under, a contract or an amendment to a contract with a
66 state contracting agency under statutes and regulations concerning
67 procurement, including, but not limited to, a small contractor, minority
68 business enterprise, an individual with a disability, as defined in
69 section 4a-60 of the general statutes or an organization providing
70 products and services by persons with disabilities;

71 (12) "Contractual services" means the furnishing of labor by a

72 contractor, not involving the delivery of a specific end product other
73 than reports, which are merely incidental to the required performance
74 and includes any and all laundry and cleaning service, pest control
75 service, janitorial service, security service, the rental and repair, or
76 maintenance, of equipment, machinery and other state-owned
77 personal property, advertising and photostating, mimeographing,
78 human services and other service arrangements where the services are
79 provided by persons other than state employees. "Contractual services"
80 includes the design, development and implementation of technology,
81 communications or telecommunications systems or the infrastructure
82 pertaining thereto, including hardware and software and services for
83 which a contractor is conferred a benefit by the state, whether or not
84 compensated by the state. "Contractual services" does not include
85 employment agreements or collective bargaining agreements;

86 (13) "Data" means recorded information, regardless of form or
87 characteristic;

88 (14) "Vote of two-thirds of the members of the board present and
89 voting" means a vote by the State Contracting Standards Board that is
90 agreed upon by two-thirds of the members of the State Contracting
91 Standards Board present and voting for a particular purpose and that
92 includes the vote of one member of the board appointed by a
93 legislative leader;

94 (15) "Electronic" means electrical, digital, magnetic, optical,
95 electromagnetic, or any other similar technology;

96 (16) "Emergency procurement" means procurement by a state
97 contracting agency, quasi-public agency, as defined in section 1-120 of
98 the general statutes, judicial department or constituent unit of higher
99 education that is made necessary by a sudden, unexpected occurrence
100 that poses a clear and imminent danger to public safety or requires
101 immediate action to prevent or mitigate the loss or impairment of life,
102 health, property or essential public services or in response to a court
103 order, settlement agreement or other similar legal judgment;

104 (17) "Equipment" means personal property of a durable nature that
105 retains its identity throughout its useful life;

106 (18) "Materials" means items required to perform a function or used
107 in a manufacturing process, particularly those incorporated into an
108 end product or consumed in its manufacture;

109 (19) "Nonprofit agency" means any organization that is not a for-
110 profit business under 501(c)(3) of the Internal Revenue Code of 1986, or
111 any subsequent corresponding internal revenue code of the United
112 States, as from time to time amended, makes no distribution to its
113 members, directors or officers and provides services contracted for by
114 (A) the state, or (B) a nonstate entity;

115 (20) "Professional services" means any type of service to the public
116 that requires that members of a profession rendering such service
117 obtain a license or other legal authorization as a condition precedent to
118 the rendition thereof, including, but not limited to, the professional
119 services of architects, professional engineers, or jointly by architects
120 and professional engineers, landscape architects, certified public
121 accountants and public accountants, land surveyors, attorneys-at-law,
122 psychologists, licensed marital and family therapists, licensed
123 professional counselors and licensed clinical social workers as well as
124 such other professional services described in section 33-182a of the
125 general statutes;

126 (21) "Privatization contract" means an agreement or series of
127 agreements between a state contracting agency and a person or entity
128 in which such person or entity agrees to provide services that are
129 substantially similar to and in lieu of services provided, in whole or in
130 part, by state employees, other than contracts with a nonprofit agency,
131 which are in effect as of the effective date of this section and which
132 through a renewal, modification, extension or rebidding of contracts
133 continue to be provided by a nonprofit agency;

134 (22) "Procurement" means contracting for, buying, purchasing,

135 renting, leasing or otherwise acquiring or disposing of, any supplies,
136 services, including but not limited to, contracts for purchase of services
137 and personal service agreements, interest in real property, or
138 construction, and includes all government functions that relate to such
139 activities, including best value selection and qualification based
140 selection;

141 (23) "Proposer" means a business submitting a proposal to a state
142 contracting agency in response to a request for proposals or other
143 competitive sealed proposal;

144 (24) "Public record" means a public record, as defined in section 1-
145 200 of the general statutes;

146 (25) "Qualification based selection" means a contract selection
147 process in which the award of a contract is primarily based on an
148 assessment of contractor qualifications and on the negotiation of a fair
149 and reasonable price;

150 (26) "Regulation" means regulation, as defined in section 4-166 of
151 the general statutes;

152 (27) "Request for proposals" means all documents, whether attached
153 or incorporated by reference, utilized for soliciting proposals;

154 (28) "State contracting agency" means any executive branch agency,
155 board, commission, department, office, institution or council. "State
156 contracting agency" does not include the Judicial Branch, the
157 Legislative Branch, the offices of the Secretary of the State, the State
158 Comptroller, the Attorney General, the State Treasurer, with respect to
159 their constitutional functions, any state agency with respect to
160 contracts specific to the constitutional and statutory functions of the
161 office of the State Treasurer. For the purposes of section 16 of this act,
162 state contracting agency includes any constituent unit of the state
163 system of higher education;

164 (29) "Subcontractor" means a subcontractor of a contractor for work

165 under a contract or an amendment to a contract;

166 (30) "Supplies" means any and all articles of personal property,
167 including, but not limited to, equipment, materials, printing, insurance
168 and leases of real property, excluding land or a permanent interest in
169 land furnished to or used by any state agency;

170 (31) "Infrastructure facility" means a building, structure or network
171 of buildings, structures, pipes, controls and equipment that provide
172 transportation, utilities, public education or public safety services.
173 Infrastructure facility includes government office buildings, public
174 schools, jails, water treatment plants, distribution systems and
175 pumping stations, waste water treatment plants, collections systems
176 and pumping stations, solid waste disposal plants, incinerators,
177 landfills, and related facilities, public roads and streets, highways,
178 public parking facilities, public transportation systems, terminals and
179 rolling stock, rail, air and water port structures, terminals and
180 equipment; and

181 (32) "State employee" means state employee, as defined in section 5-
182 154 of the general statutes and, for purposes of section 16 of this act,
183 state employee includes an employee of any state contracting agency.

184 Sec. 2. (NEW) (*Effective January 1, 2009*) (a) There is established a
185 State Contracting Standards Board that shall consist of fourteen
186 members appointed as follows: Eight members by the Governor, two
187 members by the speaker of the House of Representatives, two
188 members by the president pro tempore of the Senate, one member by
189 the majority leader of the Senate and one member by the majority
190 leader of the House of Representatives. In the event that the party of
191 the Governor also controls both houses of the General Assembly, the
192 board shall be appointed as follows: Eight members by the Governor,
193 one member by the president pro tempore of the Senate, one member
194 by the speaker of the House of Representatives, one member by the
195 majority leader of the Senate, one member of the majority leader of the
196 House of Representatives, one member by the minority leader of the

197 Senate and one member by the minority leader of the House of
198 Representatives.

199 (b) Each member shall have demonstrated sufficient knowledge by
200 education, training or experience in one or more of the following
201 enumerated areas: (1) Procurement; (2) contract negotiation, selection
202 and drafting; (3) contract risk assessment; (4) competitive bidding and
203 proposal procedures; (5) real estate transactions, including the
204 purchase, sale and lease of real estate and buildings; (6) building
205 construction and architecture; (7) business insurance and bonding; (8)
206 ethics in public contracting; (9) federal and state statutes, procurement
207 policies and regulations; (10) outsourcing and privatization analysis;
208 (11) small and minority business enterprise development; (12)
209 engineering and information technologies; (13) human services and
210 (14) personnel and labor relations, provided such education, training
211 or experience was acquired over not less than a continuous five-year
212 period within the ten-year period preceding such appointment.

213 (c) The chairperson of the board shall be appointed by the
214 Governor. The terms of the members shall be coterminous with the
215 terms of the appointing authority for each member and subject to the
216 provisions of section 4-1a of the general statutes. If any vacancy occurs
217 on the board, the appointing authority having the power to make the
218 appointment under the provisions of this section shall appoint a
219 person in accordance with the provisions of this section.

220 (d) The State Contracting Standards Board shall be an independent
221 body within the Executive Department.

222 (e) The chairperson of the board and other members of the board
223 shall be compensated two hundred dollars per diem. No person shall
224 serve on the board who is a state or municipal employee. No board
225 member or any spouse, child, stepchild, parent or sibling of such board
226 member shall be directly involved in any enterprise that does business
227 with the state.

228 (f) The Governor shall appoint an executive director of the board
229 who shall serve as an ex-officio, nonvoting member of the board. The
230 executive director shall be appointed in accordance with the provisions
231 of section 4-7 of the general statutes and may be removed from office
232 for reasonable cause, in accordance with chapter 67 of the general
233 statutes. The board shall, annually, conduct a performance evaluation
234 of such executive director. The executive director shall report to the
235 chairperson of the board and, in consultation with the Chief
236 Procurement Officer, (1) conduct comprehensive planning with respect
237 to the administrative functions of the board; (2) coordinate the budget
238 and personnel activities of the board; (3) cause the administrative
239 organization of the board to be examined with a view to promoting
240 economy and efficiency; (4) act as the external liaison for the board;
241 and (5) execute such other duties as may be assigned by the
242 chairperson of the board or the board, as applicable. The executive
243 director may enter into such contractual agreements as may be
244 necessary for the discharge of the director's duties.

245 (g) The board shall appoint a Chief Procurement Officer for a term
246 not to exceed six years, unless reappointed pursuant to the provisions
247 of this subsection. The Chief Procurement Officer shall report to the
248 board and annually be evaluated by, and serve at the pleasure of, the
249 board. For administrative purposes only, the Chief Procurement
250 Officer shall be supervised by the executive director.

251 (1) The Chief Procurement Officer shall be responsible for carrying
252 out the policies of the board relating to procurement including, but not
253 limited to, oversight, investigation, auditing, agency procurement
254 certification and procurement and project management training and
255 enforcement of said policies as well as the application of such policies
256 to the screening and evaluation of current and prospective contractors.
257 The Chief Procurement Officer may enter into such contractual
258 agreements as may be necessary for the discharge of the duties as set
259 forth in this subsection and by the board, including, but not limited to,
260 recommending best practices and providing operational and

261 administrative assistance to state agencies determined, by the board, to
262 be in violation of sections 16 to 47, inclusive, of this act.

263 (2) In addition to the duties set forth by the board, the Chief
264 Procurement Officer shall (A) oversee state contracting agency
265 compliance with the provisions of statutes and regulations concerning
266 procurement; (B) monitor and assess the performance of the
267 procurement duties of each Agency Procurement Officer; (C)
268 administer the certification system and monitor the level of agency
269 compliance with the requirements of statutes and regulations
270 concerning procurement, including, but not limited to, the education
271 and training, performance and qualifications of Agency Procurement
272 Officers; (D) review and monitor the procurement processes of each
273 state contracting agency, quasi-public agencies and institutions of
274 higher education; and (E) serve as chairperson of the Contracting
275 Standards Advisory Council and an ex-officio member of the Vendor
276 and Citizen Advisory Panel.

277 (h) The board may contract with consultants and professionals on a
278 temporary or project by project basis and may employ, subject to the
279 provisions of chapter 67 of the general statutes, such employees as may
280 be necessary to carry out the provisions of this section.

281 (i) The reasonable expenses of the State Contracting Standards
282 Board and its employees shall be paid from the budget of the board,
283 upon the approval of the board.

284 (j) No employee of the State Contracting Standards Board shall hold
285 another state or municipal position. No nonclerical employee of the
286 board or any spouse, child, stepchild, parent or sibling of such
287 employee, shall be associated with an enterprise that does business
288 with the state. For purposes of this subsection, "associated with" means
289 "business with which he is associated", as defined in section 1-79 of the
290 general statutes. Each member and employee of the State Contracting
291 Standards Board shall file, with the board and with the Office of State
292 Ethics, a statement of financial interests, as described in section 1-83 of

293 the general statutes. Such statement shall be a public record. Such
294 statements for the preceding calendar year shall be filed with the
295 Office of State Ethics, as required by law, if such employee or member
296 held such a position during the preceding calendar year.

297 (k) Any violation of the provisions of subsection (j) of this section
298 shall constitute a violation of part I of chapter 10 of the general statutes
299 and may be the subject of a complaint and investigation filed and
300 conducted in accordance with the provisions of section 1-82 of the
301 general statutes.

302 (l) The board shall adopt such rules as it deems necessary for the
303 conduct of its internal affairs, in accordance with section 4-167 of the
304 general statutes, including, but not limited to, rules of procedure for
305 any audit undertaken pursuant to section 6 of this act.

306 (m) Eight members of the board, including not less than one
307 member appointed by a legislative leader, shall constitute a quorum
308 which shall be required for the transaction of business by the board.

309 Sec. 3. (NEW) (*Effective January 1, 2009*) (a) All rights, powers, duties,
310 and authority relating to the procurement policies of the state, vested
311 in, or exercised by, any state contracting agency may also be exercised
312 by the board, provided such rights, powers, duties and authority may
313 be exercised by the board as provided in sections 3 to 47, inclusive, of
314 this act, and absent any affirmative action by the board, pursuant to
315 said sections of this act, shall not be deemed to limit or restrict the
316 exercise of such rights, powers, duties and authority by any such state
317 contracting agency. Such rights, powers, duties and authority shall
318 include the following:

319 (1) Acquisition of supplies, services, and construction, and the
320 management, control, warehousing, sale, and disposal of supplies,
321 services, and construction;

322 (2) Any state contracting and procurement processes, including, but

323 not limited to, leasing and property transfers, purchasing or leasing of
324 supplies, materials or equipment, consultant or consultant services,
325 purchase of service agreements or privatization contracts; and

326 (3) Contracts for the construction, reconstruction, alteration,
327 remodeling, repair or demolition of any public building.

328 (b) Notwithstanding any provision of chapter 14 of the general
329 statutes upon request by the board, each state contracting agency,
330 including institutions of higher education, shall provide the board, in a
331 timely manner, with such procurement information as the board
332 deems necessary. The board shall have access to all information, files
333 and records related to any state contracting agency in furtherance of
334 the board's duties, as described in sections 3 to 47, inclusive, of this act.
335 Nothing in this section shall be construed to require the board's
336 disclosure of documents that are exempt from disclosure pursuant to
337 chapter 14 of the general statutes.

338 Sec. 4. (NEW) (*Effective January 1, 2009*) Except as otherwise
339 provided in the general statutes, the board shall have the following
340 authority and responsibilities with respect to procurements by state
341 contracting agencies:

342 (a) Recommend the repeal of repetitive, conflicting or obsolete
343 statutes concerning state procurement;

344 (b) Review and make recommendations concerning proposed
345 legislation and regulations concerning procurement, management,
346 control, and disposal of any and all supplies, services, and construction
347 to be procured by the state, including, but not limited to:

348 (1) Conditions and procedures for delegation of procurement
349 authority;

350 (2) Prequalification, suspension, debarment and reinstatement of
351 prospective bidders and contractors;

- 352 (3) Small purchase procedures;
- 353 (4) Conditions and procedures for the procurement of perishables
354 and items for resale;
- 355 (5) Conditions and procedures for the use of source selection
356 methods authorized by statutes and regulations concerning
357 procurement;
- 358 (6) Conditions and procedures for the use of emergency
359 procurements;
- 360 (7) Conditions and procedures for the selection of contractors by
361 processes or methods that restrict full and open competition;
- 362 (8) The opening or rejection of bids and offers, and waiver of errors
363 in bids and offers;
- 364 (9) Confidentiality of technical data and trade secrets submitted by
365 actual or prospective bidders;
- 366 (10) Partial, progressive and multiple awards;
- 367 (11) Supervision of storerooms and inventories, including
368 determination of appropriate stock levels and the management,
369 transfer, sale or other disposal of publicly-owned supplies;
- 370 (12) Definitions and classes of contractual services and procedures
371 for acquiring such services;
- 372 (13) Regulations providing for conducting cost and price analysis;
- 373 (14) Use of payment and performance bonds;
- 374 (15) Guidelines for use of cost principles in negotiations,
375 adjustments and settlements; and
- 376 (16) Identification of procurement best practices;

377 (c) Adopt regulations, pursuant to chapter 54 of the general statutes,
378 to carry out the provisions of statutes concerning procurement, in
379 order to facilitate consistent application of the law and require the
380 implementation of procurement best practices;

381 (d) Make recommendations with regard to information systems for
382 state procurement including, but not limited to, data element and
383 design and the State Contracting Portal;

384 (e) Develop a guide to state statutes and regulations concerning
385 procurement, for use by all state contracting agencies;

386 (f) Assist state contracting agencies in complying with the statutes
387 and regulations concerning procurement by providing guidance,
388 models, advice and practical assistance to state contracting agency staff
389 relating to: (1) Buying the best service at the best price, (2) properly
390 selecting contractors, and (3) drafting contracts that achieve state goals
391 of accountability, transparency and results based outcomes and to
392 protect taxpayers' interest;

393 (g) Train and oversee the Agency Procurement Officer of each state
394 contracting agency and any contracting officers thereunder;

395 (h) Review and certify, on or after January 1, 2009, that a state
396 contracting agency's procurement processes are in compliance with
397 statutes and regulations concerning procurement by:

398 (1) Establishing procurement and project management education
399 and training criteria and certification procedures for Agency
400 Procurement Officers and contracting officers. All Agency
401 Procurement Officers and contracting officers designated under this
402 provision shall be required to maintain the certification in good
403 standing at all times while performing procurement functions;

404 (2) Approving an ethics training course, in consultation with the
405 Office of State Ethics, including, but not limited to, state employees
406 involved in procurement and for state contractors and substantial

407 subcontractors who are prequalified pursuant to chapter 58a of the
408 general statutes. Such ethics training course may be developed and
409 provided by the Office of State Ethics or by any person, firm or
410 corporation provided such course is approved by the State Contracting
411 Standards Board;

412 (i) Recertify each state contracting agency's procurement processes,
413 triennially, and provide agencies with notice of any certification
414 deficiency and exercise those powers authorized by section 34, 39 or 40
415 of this act, as applicable, if a determination of noncompliance is made;

416 (j) Define the contract data reporting requirements to the board for
417 state agencies concerning information on: (1) The number and type of
418 state contracts of each state contracting agency currently in effect state-
419 wide; (2) the term and dollar value of such contracts; (3) a list of client
420 agencies; (4) a description of services purchased under such contracts;
421 (5) contractor names; (6) an evaluation of contractor performance,
422 including, but not limited to records pertaining to the suspension or
423 disqualification of contractors, and assuring such information is
424 available on the state contracting portal; and (7) a list of contracts and
425 contractors awarded without full and open competition stating the
426 reasons for and identifying the approving authority; and

427 (k) Provide the Governor and the joint standing committee of the
428 General Assembly having cognizance of matters relating to
429 government administration with recommendations concerning the
430 statutes and regulations concerning procurement.

431 Sec. 5. (NEW) (*Effective January 1, 2009*) (a) (1) The head of each state
432 contracting agency shall appoint an Agency Procurement Officer. Such
433 officer shall serve as the liaison between the agency and the Chief
434 Procurement Officer on all matters relating to the agency's
435 procurement activity, including, but not limited to, implementation
436 and compliance with the provisions of statutes and regulations
437 concerning procurement and any policies or regulations adopted by
438 the board, coordination of the training and education of agency

439 procurement employees and any person serving on the Contracting
440 Standards Advisory Council;

441 (2) The Agency Procurement Officer shall be responsible for
442 assuring that contractors are properly screened prior to the award of a
443 contract, evaluating contractor performance during and at the
444 conclusion of a contract, submitting written evaluations to a central
445 data repository to be designated by the board and creating a project
446 management plan for the agency with annual reports to the board
447 pertaining to procurement projects within the agency.

448 (b) The State Contracting Standards Board, with the advice and
449 assistance of the Commissioner of Administrative Services, shall
450 develop a standardized state procurement and project management
451 education and training program. Such education and training program
452 shall develop education, training and professional development
453 opportunities for employees of state contracting agencies charged with
454 procurement responsibilities. The program shall educate such
455 employees in general business acumen and on proper purchasing
456 procedures as established in statutes and regulations concerning
457 procurement with an emphasis on ethics, fairness, consistency and
458 project management. Participation in the program shall be required of
459 any supervisory and nonsupervisory state employees in state
460 contracting agencies with responsibility for buying, purchasing,
461 renting, leasing or otherwise acquiring any supplies, service or
462 construction, including the preparation of the description of
463 requirements, selection and solicitation of sources, preparation and
464 award of contracts and all phases of contract administration.

465 (c) The program shall include, but shall not be limited to (1) training
466 and education concerning federal, state and municipal procurement
467 processes, including the statutes and regulations concerning
468 procurement; (2) training and education courses developed in
469 cooperation with the Office of State Ethics, the Freedom of Information
470 Commission, the State Elections Enforcement Commission, the

471 Commission on Human Rights and Opportunities, the office of the
472 Attorney General and any other state agency the board determines is
473 necessary in carrying out statutes and regulations concerning
474 procurement; (3) providing technical assistance to state contracting
475 agencies and municipalities for implementing statutes and regulations
476 concerning procurement, regulations, policies and standards
477 developed by the board; (4) training to current and prospective
478 contractors and vendors and others seeking to do business with the
479 state; and (5) training and education of state employees in the area of
480 best procurement practices in state purchasing with the goal of
481 achieving the level of acumen necessary to achieve the objectives of
482 statutes and regulations concerning procurement.

483 (d) Any employee who completes the program established under
484 subsection (b) of this section shall be issued documentation by the
485 board acknowledging such employee's participation in the program.
486 The board shall submit an annual report to the Governor and the
487 General Assembly on the status of such program in accordance with
488 section 11-4a of the general statutes.

489 (e) The board shall adopt regulations, in accordance with the
490 provisions of chapter 54 of the general statutes, to develop and
491 implement the training and education program established under
492 subsection (b) of this section.

493 Sec. 6. (NEW) (*Effective October 1, 2011*) (a) The board shall conduct
494 audits of state contracting agencies, triennially, to ensure compliance
495 with statutes and regulations concerning procurement. In conducting
496 each such audit, the board shall have access to all contracting and
497 procurement records, may interview any and all personnel responsible
498 for contracting, contract negotiations or procurement and may enter
499 into an agreement with the Auditors of Public Accounts to effectuate
500 such audit.

501 (b) Upon completion of any such audit, the board shall prepare and
502 issue a compliance report for the state contracting agency. Such report

503 shall identify any process or procedure that is inconsistent with
504 statutes and regulations concerning procurement and indicate those
505 corrective measures the board deems necessary to comply with
506 statutes and regulations concerning procurement requirements. Such
507 report shall be issued and delivered not later than thirty days after
508 completion of such audit and shall be a public record.

509 Sec. 7. (NEW) (*Effective October 1, 2011*) (a) For cause, the State
510 Contracting Standards Board may review, terminate or recommend to
511 a state contracting agency the termination of any contract or
512 procurement agreement undertaken by any state contracting agency
513 after providing fifteen days notice to the state contracting agency and
514 the applicable contractor, and consulting with the Attorney General.
515 Such termination of a contract or procurement agreement by the board
516 may occur only after (1) the board has consulted with the contracting
517 agency to determine the impact of an immediate termination of the
518 contract, (2) a determination has been made jointly by the board and
519 the contracting agency that an immediate termination of the contract
520 will not create imminent peril to the public health, safety or welfare, (3)
521 a vote of two-thirds of the members of the board present and voting
522 for that purpose, and (4) the board has provided the state contracting
523 agency and the contractor with opportunity for a hearing conducted
524 pursuant to the provisions of chapter 54 of the general statutes. Such
525 action shall be accompanied by notice to the state contracting agency
526 and any other affected party. For the purpose of this section, "for
527 cause" means: (A) A violation of section 1-84 or 1-86e of the general
528 statutes, as determined by the Citizen's Ethics Advisory Board; (B)
529 wanton or reckless disregard of any state contracting and procurement
530 process by any person substantially involved in such contract or state
531 contracting agency; or (C) notification from the Attorney General to
532 the state contracting agency that an investigation pursuant to section 4-
533 61dd of the general statutes has concluded that the process by which
534 such contract was awarded was compromised by fraud, collusion or
535 any other criminal violation. Nothing in this section shall be construed
536 to limit the authority of the board as described in section 6 of this act.

537 (b) Following consultation with the state contracting agency and
538 upon providing fifteen days' notice and the opportunity for a hearing,
539 the State Contracting Standards Board may restrict or terminate the
540 authority of any state contracting agency to enter into any contract or
541 procurement agreement if: (1) The board, upon a vote of two-thirds of
542 the members of the board present and voting for such purpose,
543 determines that such state contracting agency failed to comply with
544 statutory contracting and procurement requirements and evidenced a
545 reckless disregard for applicable procedures and policy; and (2) such
546 limitation, restriction or termination of authority is in the state's best
547 interest, provided the board has made arrangements for the exercise of
548 the contracting power of such agency during the period of limitation,
549 restriction or termination. Such limitation, restriction or termination of
550 authority shall remain in effect until such time as the board determines
551 that such state contracting agency has implemented corrective
552 measures and demonstrated compliance with statutes and regulations
553 concerning procurement.

554 (c) Following consultation with the state contracting agency, and
555 thereafter upon providing fifteen days' notice and the opportunity for
556 a hearing, the State Contracting Standards Board may order a state
557 contracting agency to take appropriate action to restrict or terminate
558 the authority of an employee or agent to enter into any contract or
559 procurement agreement if the board, upon a vote of two-thirds of the
560 members of the board present and voting for such purpose, determines
561 that such employee or agent failed to comply with statutory
562 contracting and procurement requirements, and evidenced a reckless
563 disregard for applicable procedures and policy. Such limitation,
564 restriction or termination of authority shall remain in effect until such
565 time as the board determines that such state contracting agency has
566 implemented corrective measures and demonstrated compliance with
567 statutes and regulations concerning procurement.

568 Sec. 8. (NEW) (*Effective January 1, 2009*) There is established a
569 Contracting Standards Advisory Council, which shall consist of

570 representatives from the Office of Policy and Management,
571 Departments of Administrative Services, Transportation, Public Works
572 and Information Technology and representatives of at least three
573 additional contracting agencies, including at least one human services
574 related state agency, designated by the Governor. The Chief
575 Procurement Officer shall be a member of the council and serve as
576 chairperson. The advisory council shall meet at least four times per
577 year to discuss state procurement issues and to make
578 recommendations for improvement of the procurement processes to
579 the State Contracting Standards Board. The advisory council may
580 conduct studies, research and analyses and make reports and
581 recommendations with respect to subjects or matters within the
582 jurisdiction of the State Contracting Standards Board.

583 Sec. 9. (NEW) (*Effective January 1, 2009*) (a) There shall be a Vendor
584 and Citizen Advisory Panel comprised of fifteen members appointed
585 as follows: Three members by the Governor, two members by each of
586 the following: The speaker of the House of Representatives, the
587 majority and minority leaders of the House of Representatives, the
588 president pro tempore of the Senate and the majority and minority
589 leaders of the Senate. No more than six vendors with state
590 procurement experience shall be on the panel and the remaining
591 members shall have demonstrated sufficient knowledge by education,
592 training or experience in one or more of the following areas: (1)
593 Government procurement; (2) contract negotiation, drafting and
594 management; (3) contract risk assessment; (4) preparing requests for
595 proposals, invitations to bid and other procurement solicitations; (5)
596 evaluating proposals, bids and quotations; (6) real property
597 transactions; (7) business insurance and bonding; (8) the state code of
598 ethics; (9) federal and state statutes, policies and regulations; (10)
599 outsourcing and privatization proposal analysis; (11) governmental
600 taxation and finance; (12) small and minority business enterprise
601 development; (13) collective bargaining; and (14) human services,
602 provided such education, training or experience shall have been
603 acquired over not less than a continuous five-year period and within

604 the ten-year period preceding such appointment. The chairperson of
605 the panel shall be the Chief Procurement Officer, who shall be an ex-
606 officio member.

607 (b) The panel shall make recommendations to the board regarding
608 best practices in state procurement processes and project management
609 as well as other issues pertaining to stakeholders in the system.

610 Sec. 10. (NEW) (*Effective January 1, 2009*) (a) On or before July 1,
611 2010, the board shall submit to the Governor and the General
612 Assembly such legislation as is necessary to permit state contracting
613 agencies, not including quasi-publics, institutions of higher education,
614 and municipal procurement processes utilizing state funds, to carry
615 out their functions under statutes and regulations concerning
616 procurement.

617 (b) On or before July 1, 2011, the board shall submit to the Governor
618 and the General Assembly such legislation as is necessary to apply the
619 provisions of statutes concerning procurement to constituent units of
620 the state system of higher education. Concomitantly, the board shall
621 submit such additional legislation as is necessary to apply the
622 provisions of statutes and regulations concerning privatization and
623 procurement to quasi-public agencies.

624 (c) On or before July 1, 2012, the board shall submit to the Governor
625 and the General Assembly such legislation as is necessary to apply the
626 provisions of statutes and regulations concerning procurement to the
627 municipal procurement processes utilizing state funds.

628 Sec. 11. (NEW) (*Effective January 1, 2009*) (a) The board shall provide
629 assistance to the Secretary of the State, Comptroller, Treasurer and
630 Attorney General to develop best procurement practices specific to the
631 constitutional and statutory functions of each office and consistent
632 with statutes and regulations concerning procurement.

633 (b) Each of the officers specified in subsection (a) of this section shall

634 adopt a code of procurement practices on or before June 1, 2011.

635 Sec. 12. (NEW) (*Effective January 1, 2009*) (a) On or before February 1,
636 2011, the Judicial Branch and the Legislative Branch shall each prepare
637 a procurement code applicable to contracting expenditures, including,
638 but not limited to, expenditures: (1) Involving contracting and
639 procurement processes for purchasing or leasing of supplies, materials
640 or equipment, consultant or consultant services, personal service
641 agreements or purchase of service agreements; and (2) relating to
642 contracts for the renovation, alteration or repair of any Judicial Branch
643 or Legislative Branch facility in accordance with section 4b-1 of the
644 general statutes.

645 (b) The procurement codes described in subsection (a) of this section
646 shall be designed to: (1) Establish uniform contracting standards and
647 practices; (2) simplify and clarify contracting standards and
648 procurement policies and practices, including, but not limited to,
649 procedures for competitive sealed bids, competitive sealed proposals,
650 small purchases, sole source procurements, emergency procurements
651 and special procurements; (3) ensure the fair and equitable treatment
652 of all businesses and persons who deal with the procurement system;
653 (4) include a process to maximize the use of small contractors and
654 minority business enterprises; (5) provide increased economy in
655 procurement activities and maximize purchasing value to the fullest
656 extent possible; (6) ensure that the procurement of supplies, materials,
657 equipment, services, real property and construction is obtained in a
658 cost-effective and responsive manner; (7) include a process to ensure
659 contractor and Judicial Branch or Legislative Branch accountability;
660 and (8) provide a process for competitive sealed bids, competitive
661 sealed proposals, small purchases, sole source procurements,
662 emergency procurements, special procurements, best value selection,
663 qualification based selection and the conditions for their use.

664 (c) On or before February 1, 2011, the Judicial Branch shall submit
665 such procurement code for review and approval to the joint standing

666 committee of the General Assembly having cognizance of matters
667 relating to the judiciary.

668 Sec. 13. (NEW) (*Effective January 1, 2009*) (a) The Department of
669 Administrative Services, in consultation with the State Contracting
670 Standards Board, shall establish and maintain a single electronic portal
671 available on the Internet and located on the Department of
672 Administrative Services' web site for purposes of posting all
673 contracting opportunities with state agencies in the executive branch,
674 the constituent units of the state system of higher education and quasi-
675 public agencies. Such electronic portal shall be known as the State
676 Contracting Portal.

677 (b) The State Contracting Portal shall, among other things, include:
678 (1) All requests for bids or proposals, and other solicitations regardless
679 of the method of source selection, related materials and all resulting
680 contracts and agreements by state agencies; (2) a searchable database
681 for locating information; (3) personal services agreements and
682 purchase of service agreements; (4) a state procurement and contract
683 manual or other similar information designated by the Department of
684 Administrative Services as describing approved contracting processes
685 and procedures; and (5) prominent features to encourage the active
686 recruitment and participation of small businesses and women and
687 minority owned enterprises in the state contracting process.

688 (c) All state agencies in the executive branch, the constituent units of
689 the state system of higher education and quasi-public agencies shall
690 post all bids, requests for proposals and all resulting contracts and
691 agreements on the State Contracting Portal and shall, with the
692 assistance of the Department of Administrative Services and the
693 Department of Information Technology as needed, develop the
694 infrastructure and capability to electronically communicate with the
695 State Contracting Portal.

696 (d) All state agencies in the executive branch, the constituent units
697 of the state system of higher education and quasi-public agencies shall

698 develop written policies and procedures to ensure that information is
699 posted to the State Contracting Portal in a timely, complete and
700 accurate manner consistent with the highest legal and ethical
701 standards of state government.

702 (e) The Department of Administrative Services shall periodically
703 report to the Governor and the State Contracting Standards Board on
704 the progress of all state agencies in the executive branch, the
705 constituent units of the state system higher education and quasi-public
706 agencies, in developing the capacity, infrastructure, policies and
707 procedures to electronically communicate with the State Contracting
708 Portal and the Department of Administrative Services' progress
709 toward establishment and maintenance of the State Contracting Portal.

710 Sec. 14. (NEW) (*Effective January 1, 2009*) On and after June 1, 2010,
711 all state contracts of each state contracting agency that take effect on or
712 after June 1, 2010, shall contain provisions to ensure accountability,
713 transparency and results based outcomes, as prescribed by the State
714 Contracting Standards Board. On and after June 1, 2010, all state
715 contracts of the Legislative Branch and the Judicial Branch that take
716 effect on or after June 1, 2010, shall contain provisions to ensure
717 accountability, transparency and results based outcomes.

718 Sec. 15. (*Effective January 1, 2009*) Nothing in sections 1 to 14,
719 inclusive, and 16 of this act shall be construed to affect the
720 requirements of public act 06-129.

721 Sec. 16. (NEW) (*Effective January 1, 2010*) (a) Prior to entering any
722 privatization contract for the privatization of a state service that is not
723 currently privatized, the state contracting agency shall develop a cost-
724 benefit analysis in accordance with the provisions of subsection (b) of
725 this section. Such requirement shall not apply to a privatization
726 contract for a service currently provided, in whole or in part, by a non-
727 state entity. Any affected party may petition the State Contracting
728 Standards Board for review of such privatization contract, in
729 accordance with the provisions of subsections (f) to (h), inclusive, of

730 this section.

731 (b) The cost-benefit analysis conducted by a state contracting agency
732 prior to entering a privatization contract shall document the direct and
733 indirect costs, savings, and qualitative and quantitative benefits, that
734 will result from the implementation of such privatization contract.
735 Such cost-benefit analysis shall specify the schedule that, at a
736 minimum, shall be adhered to in order to achieve any estimated
737 savings. Any cost factor shall be clearly identified in such cost-benefit
738 analysis and supported by all applicable records and reports. The
739 department head of such state contracting agency shall certify that,
740 based on the data and information, all projected costs, savings and
741 benefits are valid and achievable. As used in this subsection, "costs"
742 means all reasonable, relevant and verifiable expenses, including
743 salary, materials, supplies, services, equipment, capital depreciation,
744 rent, maintenance, repairs, utilities, insurance, travel, overhead,
745 interim and final payments and the normal cost of fringe benefits, as
746 calculated by the Comptroller. As used in this subsection, "savings"
747 means the difference between the current annual direct and indirect
748 costs of providing such service and the projected, annual direct and
749 indirect costs of contracting to provide such services in any succeeding
750 state fiscal year during the term of such proposed privatization
751 contract.

752 (c) (1) If such cost-benefit analysis identifies a cost savings to the
753 state of ten per cent or more, and such privatization contract will not
754 diminish the quality of such service, the state contracting agency shall
755 develop a business case, in accordance with the provisions of
756 subsection (d) of this section, in order to evaluate the feasibility of
757 entering any such contract and to identify the potential results,
758 effectiveness and efficiency of such contract.

759 (2) If such cost-benefit analysis identifies a cost savings of less than
760 ten per cent to the state and such privatization contract will not
761 diminish the quality of such service, the state contracting agency may

762 develop a business case, in accordance with the provisions of
763 subsection (d) of this section, in order to evaluate the feasibility of
764 entering any such contract and to identify the potential results,
765 effectiveness and efficiency of such contract, provided there is a
766 significant public policy reason to enter into such privatization
767 contract. Any such business case shall be approved in accordance with
768 the provisions of subdivision (4) of subsection (h) of this section.

769 (3) If any such proposed privatization contract would result in the
770 layoff, transfer or reassignment of one hundred or more state agency
771 employees, after consulting with the potentially affected bargaining
772 units, if any, the state contracting agency shall notify the state
773 employees of such bargaining unit, after such cost benefit analysis is
774 completed. Such state contracting agency shall provide an opportunity
775 for said employees to reduce the costs of conducting the operations to
776 be privatized and provide reasonable resources for the purpose of
777 encouraging and assisting such state employees to organize and
778 submit a bid to provide the services that are the subject of the potential
779 privatization contract. The state contracting agency shall retain sole
780 discretion in determining whether to proceed with the privatization
781 contract, provided the business case for such contract is approved by
782 the board.

783 (d) Any business case developed by a state contracting agency for
784 the purpose of complying with subsection (c) of this section shall
785 include: (1) The cost benefit analysis as described in subsection (b) of
786 this section, (2) a detailed description of the service or activity that is
787 the subject of such business case, (3) a description and analysis of the
788 state contracting agency's current performance of such service or
789 activity, (4) the goals to be achieved through the proposed
790 privatization contract and the rationale for such goals, (5) a description
791 of available options for achieving such goals, (6) an analysis of the
792 advantages and disadvantages of each option, including, at a
793 minimum, potential performance improvements and risks attendant to
794 termination of the contract or rescission of such contract, (7) a

795 description of the current market for the services or activities that are
796 the subject of such business case, (8) an analysis of the quality of
797 services as gauged by standardized measures and key performance
798 requirements including compensation, turnover, and staffing ratios, (9)
799 a description of the specific results based performance standards that
800 shall, at a minimum be met, to ensure adequate performance by any
801 party performing such service or activity, (10) the projected time frame
802 for key events from the beginning of the procurement process through
803 the expiration of a contract, if applicable, (11) a specific and feasible
804 contingency plan that addresses contractor nonperformance and a
805 description of the tasks involved in and costs required for
806 implementation of such plan, and (12) a transition plan, if appropriate,
807 for addressing changes in the number of agency personnel, affected
808 business processes, employee transition issues, and communications
809 with affected stakeholders, such as agency clients and members of the
810 public, if applicable. Such transition plan shall contain a reemployment
811 and retraining assistance plan for employees who are not retained by
812 the state or employed by the contractor. If the primary purpose of the
813 proposed privatization contract is to provide a core governmental
814 function, such business case shall also include information sufficient to
815 rebut the presumption that such core governmental function should
816 not be privatized. Such presumption shall not be construed to prohibit
817 a state contracting agency from contracting for specialized technical
818 expertise not available within such agency, provided such agency shall
819 retain responsibility for such core governmental function. For the
820 purposes of this section, "core governmental function" means a
821 function for which the primary purpose is (A) the inspection for
822 adherence to health and safety standards because public health or
823 safety may be jeopardized if such inspection is not done or is not done
824 in a timely or proper manner, (B) the establishment of statutory,
825 regulatory or contractual standards to which a regulated person, entity
826 or state contractor shall be held, (C) the enforcement of statutory,
827 regulatory or contractual requirements governing public health or
828 safety, or (D) criminal or civil law enforcement. If any part of such

829 business case is based upon evidence that the state contracting agency
830 is not sufficiently staffed to provide the core governmental function
831 required by the privatization contract, the state contracting agency
832 shall also include within such business case a plan for remediation of
833 the understaffing to allow such services to be provided directly by the
834 state contracting agency in the future.

835 (e) Upon the completion of such business case, the state contracting
836 agency shall submit the business case to the State Contracting
837 Standards Board. For any privatization contract with a projected cost
838 that exceeds one hundred fifty million dollars annually or six hundred
839 million dollars over the life of such contract, the state contracting
840 agency shall also submit such business case to the Governor, the
841 president pro tempore of the Senate, the speaker of the House of
842 Representatives, and any collective bargaining unit affected by the
843 proposed privatization contract.

844 (f) (1) There shall be a privatization contract committee of the State
845 Contracting Standards Board that shall review, evaluate, issue
846 advisory reports and make recommendations on business cases
847 submitted to the board by any state contracting agency. Such
848 privatization contract committee shall consist of five members of the
849 State Contracting Standards Board. Such members shall be appointed
850 by the chairperson of the board and consist of both gubernatorial and
851 legislative appointments, have not more than three members from any
852 one political party, and at least one member of such committee shall
853 have expertise in the area that is the subject of such proposed contract.
854 The chairperson of the board, or the chairperson's designee shall serve
855 as the chair of the privatization contract committee.

856 (2) Upon receipt of any such business case from a state contracting
857 agency, the State Contracting Standards Board shall immediately refer
858 such business case to such privatization contract committee. The
859 privatization contract committee shall employ a standard process for
860 reviewing, evaluating and approving any such business cases. Such

861 process shall include due consideration of: (A) The cost-benefit
862 analysis developed by the state contracting agency, (B) the business
863 case developed by the state contracting agency, including any facts,
864 documents or other materials that are relevant to such business case,
865 (C) any adverse effect that such privatization contract may have on
866 minority, small and women-owned businesses that do, or are
867 attempting to do business with the state, and (D) the value of having
868 services performed in the state and within the United States.

869 (3) The privatization committee shall evaluate the business case and
870 submit the committee's evaluation to the State Contracting Standards
871 Board for review and approval. During the review or consideration of
872 any such business case, no member of the board shall engage in any
873 ex-parte communication with any lobbyist, contractor or union
874 representative. Unless otherwise provided in this section, a majority
875 vote of the board shall be required to approve any such business case.

876 (4) The business case for a privatization contract to provide a core
877 governmental function may be approved by a two-thirds vote of the
878 board, provided the state contracting agency has provided sufficient
879 evidence to rebut the presumption contained in subsection (d) of this
880 section and there is a significant policy reason to approve such
881 business case. In no such case shall the insufficient staffing of a state
882 contracting agency constitute a significant policy reason to approve a
883 business case for a privatization contract to provide a core
884 governmental function.

885 (g) Each state contracting agency that submits a business case to the
886 board for review shall submit to the board all information, documents
887 or other material required by the privatization contract committee to
888 complete its review and evaluation of such business case.

889 (h) (1) Not later than sixty days after receipt of any business case,
890 the State Contracting Standards Board shall transmit a report detailing
891 its review, evaluation and disposition regarding such business case to
892 the state contracting agency that submitted such business case and, in

893 the case of a privatization contract with a projected cost of one
894 hundred fifty million dollars or more annually, or six hundred million
895 dollars or more over the life of the contract, concomitantly transmit
896 such report to the Governor, the president pro tempore of the Senate,
897 the speaker of the House of Representatives and any collective
898 bargaining unit affected by the proposed privatization contract. Such
899 sixty-day period may be extended for an additional thirty days upon a
900 majority vote of the board or the privatization contract committee and
901 for good cause shown.

902 (2) The board's report shall include the business case prepared by
903 the state contracting agency, the evaluation of the business case
904 prepared by the privatization contract committee, the reasons for
905 approval or disapproval, any recommendations of the board and
906 sufficient information to assist the state contracting agency in
907 determining if additional steps are necessary to move forward with a
908 privatization contract.

909 (3) If the State Contracting Standards Board does not act on a
910 business case submitted by a state contracting agency within sixty
911 days of receipt of such business case, such business case shall be
912 deemed approved, except that no business case may be approved for
913 failure of the board to meet.

914 (4) In the case of a business case developed pursuant to subdivision
915 (2) of subsection (c) of this section, a two-thirds vote of the board shall
916 be required for approval of such privatization contract.

917 (5) Any state contracting agency may request an expedited review
918 of a business case submitted to the board if there is a compelling public
919 interest for such expedited review. If the board approves the agency's
920 request for such an expedited review, such review shall be completed
921 not later than thirty days after receipt of such request. If the board fails
922 to complete an expedited review within thirty days of receipt of a
923 request that was approved by the board, such business case shall be
924 deemed to be approved.

925 (i) A state contracting agency may publish notice soliciting bids for a
926 privatization contract only after the board approves such business
927 case, provided any privatization contract that is estimated to cost in
928 excess of one hundred fifty million dollars annually or six hundred
929 million dollars or more over the life of the contract shall also be
930 approved by the General Assembly prior to the state contracting
931 agency soliciting bids for such contract. The General Assembly may
932 approve any such contract as a whole by a majority vote of each house
933 or may reject such agreement as a whole by a majority vote of either
934 house. If the General Assembly is in session, it shall vote to approve or
935 reject such contract not later than thirty days after such state
936 contracting agency files such contract with the General Assembly. If
937 the General Assembly is not in session when such contract is filed, it
938 shall be submitted to the General Assembly not later than ten days
939 after the first day of the next regular session or special session called
940 for such purpose. The contract shall be deemed approved if the
941 General Assembly fails to vote to approve or reject such contract
942 within thirty days after such filing. Such thirty-day period shall not
943 begin or expire unless the General Assembly is in regular session. For
944 the purpose of this subsection, any contract filed with the clerks within
945 thirty days before the commencement of a regular session of the
946 General Assembly shall be deemed to be filed on the first day of such
947 session.

948 (j) Each state contracting agency shall submit, in writing, to the State
949 Contracting Standards Board, any proposed amendment to a board
950 approved business case in order that the board may review and
951 approve of such proposed amendment. The board may approve or
952 disapprove of any such proposed amendment not later than thirty
953 days after receipt of such proposed amendment by the same vote that
954 was required for approval of the original business case. If the board
955 fails to complete its review within thirty days of receipt of such
956 proposed amendment, such amendment shall be deemed approved.

957 (k) Not later than thirty days after a decision of the board to

958 approve a business case, any collective bargaining agent of any
959 employee adversely affected by such proposed privatization contract
960 may file a motion for an order to show cause in the superior court for
961 the judicial district of Hartford on the grounds that such contract fails
962 to comply with the substantive or procedural requirements of this
963 section. A ruling on any such motion may: (1) Deny the motion; (2)
964 grant the motion if the court finds that the proposed contract would
965 substantively violate the provisions of this section; or (3) stay the
966 effective date of the contract until any substantive or procedural defect
967 found by the court has been corrected.

968 (l) (1) The board may review additional existing privatization
969 contracts and shall review not less than one contracting area each year
970 that is currently privatized. During the review of any such
971 privatization contract, no member of the board shall engage in any ex-
972 parte communication with any lobbyist, contractor or union
973 representative. For each such privatization contract selected for review
974 by the board, the appropriate state contracting agency shall develop a
975 cost-benefit analysis in accordance with subsection (b) of this section.
976 In addition, any affected party may petition the board for review of
977 any existing privatization contract, in accordance with the provisions
978 of subsections (f) to (h), inclusive, of this section.

979 (2) If such cost-benefit analysis identifies a ten per cent or more cost
980 savings to the state from the use of such privatization contract and
981 such contract does not diminish the quality of the service provided,
982 such state contracting agency shall develop a business case for the
983 renewal of such privatization contract in accordance with the
984 provisions of subsections (d) and (e) of this section. The board shall
985 review such contract in accordance with the provisions of subsections
986 (f) to (h), inclusive, of this section and may approve such renewal by
987 the applicable vote of the board, provided any such renewal that is
988 estimated to cost in excess of one hundred fifty million dollars
989 annually or six hundred million dollars or more over the life of the
990 contract shall also be approved by the General Assembly prior to the

991 state contracting agency renewing such contract. If such renewal is
992 approved by the board and the General Assembly, if applicable, the
993 provisions of subsection (j) of this section shall apply to any proposed
994 amendment to such contract.

995 (3) If such cost-benefit analysis identifies a cost savings to the state
996 of less than ten per cent, such state contracting agency shall prepare a
997 plan to have such service provided by state employees and shall begin
998 to implement such plan, provided: (A) While such plan is prepared,
999 but prior to implementation of such plan, such state contracting
1000 agency may develop a business case for such privatization contract, in
1001 accordance with the provisions of subsection (d) of this section, that
1002 achieves a cost savings to the state of ten per cent or more. Any such
1003 business case shall be reviewed by the board in accordance with the
1004 provisions of subsections (f) to (h), inclusive, of this section, and may
1005 be approved by the applicable vote of the board; (B) such privatization
1006 contract shall not be renewed with the vendor currently providing
1007 such service unless: (i) There exists a significant public interest in
1008 renewing such contract, and (ii) such renewal is approved by a two-
1009 thirds vote of the board; (C) the state contracting agency may enter
1010 into a contract with a term of one year or less for the provision of such
1011 service until such state contracting agency implements such plan; and
1012 (D) the procedure for the transfer of funds from the General Fund, as
1013 described in section 4-94 of the general statutes, may be utilized to
1014 allocate necessary resources for the implementation of the provisions
1015 of this subdivision.

1016 (4) Notwithstanding the provisions of subdivision (3) of this
1017 subsection, the renewal of a privatization contract with a nonprofit
1018 organization shall not be denied if the cost of increasing compensation
1019 to employees performing the privatized service is the sole cause for
1020 such contract not achieving a cost savings to the state of ten per cent or
1021 more.

1022 (m) The Office of Policy and Management, in consultation with the

1023 State Contracting Standards Board, shall: (1) Develop policies and
1024 procedures, including templates for use by state contracting agencies
1025 for the development of a cost-benefit analysis, as described in
1026 subsection (b) of this section, and (2) review with each state contracting
1027 agency the budgetary impact of any such privatization contract and
1028 the need to request budget adjustments in connection with any such
1029 privatization contract.

1030 (n) The State Contracting Standards Board, in consultation with the
1031 Department of Administrative Services, shall: (1) Recommend and
1032 implement standards and procedures for state contracting agencies to
1033 develop business cases in connection with privatization contracts,
1034 including templates for use by state contracting agencies when
1035 submitting business cases to the board, and policies and procedures to
1036 guide state contracting agencies to complete such business cases, and
1037 (2) develop guidelines and procedures for assisting state employees
1038 whose jobs are affected by a privatization contract.

1039 (o) Notwithstanding the provisions of subsections (a) and (i) of this
1040 section, a state contracting agency may enter into a privatization
1041 contract without development of a cost-benefit analysis or approval of
1042 a business case by the State Contracting Standards Board if (1) the state
1043 contracting agency finds that a privatization contract is required (A)
1044 due to an imminent peril to the public health, safety or welfare, and (B)
1045 the agency states, in writing, its reasons for such finding; and (2) the
1046 Governor approves such finding, in writing.

1047 (p) Nothing in this section shall be construed to apply to
1048 procurements that involve the expenditure of federal assistance or
1049 federal contract funds, provided federal law provides applicable
1050 procurement procedures that are inconsistent with the requirements of
1051 this section.

1052 Sec. 17. (NEW) (*Effective June 1, 2010*) (a) Except as otherwise
1053 provided, the provisions of sections 16 to 47, inclusive, of this act shall
1054 apply to all contracts solicited or entered into by state contracting

1055 agencies after the effective date of this section.

1056 (b) Except as otherwise provided, the provisions of sections 16 to 47,
1057 inclusive, of this act shall apply to every expenditure of public funds
1058 by any state contracting agency, irrespective of their source, involving
1059 any state contracting and procurement processes, including, but not
1060 limited to, leasing and property transfers, purchasing or leasing of
1061 supplies, materials or equipment, consultant or consultant services,
1062 personal service agreements, purchase of service agreements or
1063 privatization contracts, as defined in section 1 of this act, and, relating
1064 to contracts for the construction, reconstruction, alteration,
1065 remodeling, repair or demolition of any public building, bridge or
1066 road.

1067 (c) Nothing in sections 16 to 47, inclusive, of this act, shall be
1068 construed to require the application of procurement statutes or
1069 regulations to a procurement that involves the expenditure of federal
1070 assistance or federal contract funds if federal law provides
1071 procurement procedures applicable to the expenditure of such funds,
1072 to the extent such federal procedures are inconsistent with state
1073 procurement statutes or regulations.

1074 Sec. 18. (NEW) (*Effective June 1, 2010*) For the purpose of obtaining
1075 supplies, materials, equipment or contractual services, except
1076 infrastructure facilities, the Commissioner of Administrative Services
1077 shall establish a requisition system to be used by state contracting
1078 agencies to initiate and authorize the procurement process. Such
1079 system shall be approved by the State Contracting Standards Board.

1080 Sec. 19. (NEW) (*Effective October 1, 2009*) (a) All purchases of, and
1081 contracts for, supplies, materials, equipment and contractual services
1082 by any state contracting agency, except purchases and contracts made
1083 pursuant to the provisions of section 23 of this act, shall be awarded by
1084 one of the following methods, unless otherwise authorized by law:

1085 (1) Competitive sealed bidding;

- 1086 (2) Competitive sealed proposals;
1087 (3) Small purchase procedure;
1088 (4) Sole source procurement;
1089 (5) Emergency procurements; or
1090 (6) Waiver of bid or proposal requirement for extraordinary
1091 conditions.

1092 (b) Not later than June 1, 2010, the State Contracting Standards
1093 Board shall adopt regulations, in accordance with the provisions of
1094 chapter 54 of the general statutes, to define each of the methods listed
1095 in subsection (a) of this section, establish the circumstances in which
1096 each such method shall be used by state contracting agencies, and
1097 establish the processes and criteria by which purchases and contracts
1098 shall be awarded in accordance with each such method.

1099 Sec. 20. (NEW) (*Effective January 1, 2009*) (a) Not later than June 1,
1100 2010, the State Contracting Standards Board shall adopt regulations, in
1101 accordance with the provisions of chapter 54 of the general statutes,
1102 specifying the procedure for issuing invitations for bids which shall
1103 include the required elements of an invitation for bids, the process for
1104 opening of bids, and criteria for the evaluation and award of bids.

1105 (b) Not later than June 1, 2010, the State Contracting Standards
1106 Board, in consultation with the Commissioner of Administrative
1107 Services shall adopt regulations, in accordance with the provisions of
1108 chapter 54 of the general statutes, specifying the circumstances in
1109 which contracts and purchase orders, in an amount in excess of fifty
1110 thousand dollars, may be awarded by a method of source selection
1111 other than competitive sealed bidding.

1112 Sec. 21. (NEW) (*Effective January 1, 2009*) (a) Not later than January 1,
1113 2010, the State Contracting Standards Board, in consultation with the
1114 Department of Administrative Services, shall adopt regulations to

1115 establish small purchase procedures for procurements that do not
1116 exceed fifty thousand dollars. Such regulations shall include a
1117 prohibition on the artificial division of a procurement in order to make
1118 use of such small procurement procedures.

1119 (b) The State Contracting Standards Board, in consultation with the
1120 Commissioner of Administrative Services, may determine that a state
1121 contracting agency has artificially divided procurement requirements
1122 so as to constitute a small purchase under this section and, upon such
1123 determination shall prohibit the state contracting agency from utilizing
1124 such small purchase procedures.

1125 (c) The State Contracting Standards Board, in consultation with the
1126 Commissioner of Administrative Services, may waive the requirement
1127 of competitive bidding or competitive negotiation in the case of minor,
1128 nonrecurring or emergency purchases of ten thousand dollars or less
1129 in amount.

1130 Sec. 22. (NEW) (*Effective January 1, 2009*) Not later than June 1, 2010,
1131 the State Contracting Standards Board, in consultation with the
1132 Commissioner of Administrative Services, shall adopt regulations, in
1133 accordance with the provisions of chapter 54 of the general statutes,
1134 specifying the circumstances in which a contract may be awarded for a
1135 supply, service or construction item without competition. Such
1136 regulations shall include, but not be limited to, situations in which an
1137 agency contracting officer states in writing that there is only one source
1138 for the required supply, service or construction item, provided sole
1139 source procurement is not permitted unless a requirement is available
1140 from only a single supplier.

1141 Sec. 23. (NEW) (*Effective January 1, 2009*) Not later than June 1, 2010,
1142 the State Contracting Standards Board, in accordance with the
1143 provisions of chapter 54 of the general statutes, shall adopt regulations
1144 establishing procedures for waiver of competitive bid or proposal
1145 requirements.

1146 Sec. 24. (NEW) (*Effective January 1, 2009*) Not later than June 1, 2010,
1147 the State Contracting Standards Board, in consultation with the
1148 Commissioner of Administrative Services and any other appropriate
1149 award authority, shall adopt regulations, in accordance with the
1150 provisions of chapter 54 of the general statutes, permitting emergency
1151 procurements when there exists a threat to public health, welfare or
1152 safety. Such emergency procurements shall be made with competition,
1153 as is practicable under the circumstances. Said regulations shall require
1154 that a written determination of the basis for the emergency and for the
1155 selection of the particular contractor be included in the contract file
1156 and transmitted to the Governor, the president pro tempore of the
1157 Senate, the majority and minority leaders of the Senate, the speaker of
1158 the House of Representatives and the majority and minority leaders of
1159 the House of Representatives.

1160 Sec. 25. (NEW) (*Effective January 1, 2009*) A state contracting agency
1161 may request factual information reasonably available to the bidder or
1162 proposer to substantiate that the price or cost offered, or some portion
1163 of it, is reasonable.

1164 Sec. 26. (NEW) (*Effective January 1, 2009*) Not later than June 1, 2010,
1165 the State Contracting Standards Board, in consultation with the
1166 Commissioner of Administrative Services, shall adopt regulations, in
1167 accordance with the provisions of chapter 54 of the general statutes,
1168 establishing standards for the preparation, maintenance, and content
1169 of specifications for supplies, services, and construction required by
1170 the state.

1171 Sec. 27. (NEW) (*Effective January 1, 2009*) Not later than June 1, 2010,
1172 the State Contracting Standards Board, in consultation with the
1173 Attorney General, shall adopt regulations, in accordance with the
1174 provisions of chapter 54 of the general statutes, specifying the types of
1175 contracts that may be used by state contracting agencies. Such
1176 regulations shall specify that a cost-reimbursement contract may be
1177 used only when a determination is made in writing by the Agency

1178 Procurement Officer that such contract is likely to be less costly to the
1179 state than any other type or that it is impracticable to obtain the
1180 supplies, services or construction required except under such a
1181 contract.

1182 Sec. 28. (NEW) (*Effective January 1, 2009*) Not later than June 1, 2010,
1183 the State Contracting Standards Board shall adopt regulations, in
1184 accordance with the provisions of chapter 54 of the general statutes,
1185 requiring that contractors submit appropriate documentation to the
1186 appropriate state contracting agency, prior to the award of a contract,
1187 to confirm that the proposed contractor's accounting system will
1188 permit timely development of all necessary cost data in the form
1189 required by the specific contract type.

1190 Sec. 29. (NEW) (*Effective January 1, 2009*) Each contract of a state
1191 contracting agency shall provide that a state contracting agency may,
1192 at reasonable times, inspect the part of the plant or place of business of
1193 a contractor or any subcontractor which is related to the performance
1194 of any contract awarded, or to be awarded by the state, to ensure
1195 compliance with the contract.

1196 Sec. 30. (NEW) (*Effective January 1, 2009*) A state contracting agency
1197 may audit the books and records of a contractor or any subcontractor
1198 under any negotiated contract or subcontract to the extent that such
1199 books and records relate to the performance of such contract or
1200 subcontract. Such books and records shall be maintained by the
1201 contractor for a period of three years from the date of final payment
1202 under the prime contract and by the subcontractor for a period of three
1203 years from the expiration of the subcontract.

1204 Sec. 31. (NEW) (*Effective January 1, 2009*) When, for any reason,
1205 collusion or other anticompetitive practices are suspected among any
1206 bidders or proposers for a state contract, a notice of the relevant facts
1207 shall be transmitted to the Attorney General by any affected party,
1208 including, but not limited to, the state contracting agency, a bidder or a
1209 proposer.

1210 Sec. 32. (NEW) (*Effective January 1, 2009*) Each state contracting
1211 agency shall retain and dispose of all procurement records in
1212 accordance with records retention guidelines and schedules approved
1213 by the Public Records Administrator.

1214 Sec. 33. (NEW) (*Effective June 1, 2010*) The Agency Procurement
1215 Officer of each state contracting agency shall maintain a record that
1216 lists all contracts awarded pursuant to section 21 and the regulations
1217 adopted under section 23 of this act for a minimum of five years after
1218 the date of any such award. Such record shall contain:

1219 (1) Each contractor's name;

1220 (2) The amount and type of each contract; and

1221 (3) A listing of the supplies, services or construction procured under
1222 each contract.

1223 Sec. 34. (NEW) (*Effective June 1, 2010*) (a) After reasonable notice and
1224 hearing and consultation with the relevant state contracting agency
1225 and the Attorney General, the State Contracting Standards Board,
1226 acting through a subcommittee of three members, appointed by the
1227 chairperson, which subcommittee shall include not less than one
1228 legislative appointee, may disqualify any contractor, bidder or
1229 proposer, for a period of not more than five years, from bidding on,
1230 applying for or participating as a contractor or subcontractor under,
1231 contracts with the state. Such disqualification shall be upon the vote of
1232 two-thirds of the members of the subcommittee present and voting for
1233 that purpose. Such hearing shall be conducted in accordance with the
1234 provisions of chapter 54 of the general statutes. The subcommittee
1235 shall issue a written recommendation not later than sixty days after the
1236 conclusion of such hearing, and shall state the reason for the
1237 recommended action and, if the disqualification is recommended, the
1238 period of time the contractor, bidder or proposer shall be disqualified.
1239 In determining whether to disqualify a contractor, bidder or proposer,
1240 the subcommittee shall consider the seriousness of the acts or

1241 omissions of the contractor, bidder or proposer and any mitigating
1242 factors. Such recommendation shall be submitted to the board for
1243 action and sent to the contractor by certified mail, return receipt
1244 requested. If disqualification is recommended, the contractor shall
1245 have thirty days to submit comments to the board. Upon receipt of the
1246 proposed recommendation by the subcommittee, the board shall issue
1247 a written decision either adopting, rejecting or modifying the
1248 subcommittee's recommendation. Such decision shall be issued not
1249 later than thirty days after receipt by the board of the contractor's
1250 comments, if any. The board shall send the decision to the contractor
1251 by certified mail, return receipt requested. The written decision shall
1252 be a final decision for purposes of sections 4-180 and 4-183 of the
1253 general statutes.

1254 (b) Causes for such disqualification shall include the following:

1255 (1) Conviction of, or entry of a plea of guilty or nolo contendere or
1256 admission to, the commission of a criminal offense as an incident to
1257 obtaining or attempting to obtain a public or private contract or
1258 subcontract, or in the performance of such contract or subcontract;

1259 (2) Conviction of, or entry of a plea of guilty or nolo contendere or
1260 admission to, the violation of any state or federal law for
1261 embezzlement, theft, forgery, bribery, falsification or destruction of
1262 records, receiving stolen property or any other offense indicating a
1263 lack of business integrity or business honesty which affects
1264 responsibility as a state contractor;

1265 (3) Conviction of, or entry of a plea of guilty or nolo contendere or
1266 admission to, a violation of any state or federal antitrust, collusion or
1267 conspiracy law arising out of the submission of bids or proposals on a
1268 public or private contract or subcontract;

1269 (4) Accumulation of two or more suspensions pursuant to section 35
1270 of this act within a twenty-four-month period;

1271 (5) A wilful, negligent or reckless failure to perform in accordance
1272 with the terms of one or more contracts or subcontracts, agreements or
1273 transactions with state contracting agencies;

1274 (6) A history of failure to perform or of unsatisfactory performance
1275 on one or more public contracts, agreements or transactions with state
1276 contracting agencies;

1277 (7) A wilful violation of a statutory or regulatory provision or
1278 requirement applicable to a contract, agreement or transaction with
1279 state contracting agencies;

1280 (8) A wilful or egregious violation of the ethical standards set forth
1281 in sections 1-84 and 1-86e of the general statutes, as determined by the
1282 Citizen's Ethics Advisory Board; or

1283 (9) Any other cause or conduct the board determines to be so
1284 serious and compelling as to affect responsibility as a state contractor,
1285 including, but not limited to:

1286 (A) Disqualification by another state for cause;

1287 (B) The fraudulent or criminal conduct of any officer, director,
1288 shareholder, partner, employee or other individual associated with a
1289 contractor, bidder or proposer of such contractor, bidder or proposer,
1290 provided such conduct occurred in connection with the individual's
1291 performance of duties for or on behalf of such contractor, bidder or
1292 proposer and such contractor, bidder or proposer knew or had reason
1293 to know of such conduct;

1294 (C) The existence of an informal or formal business relationship
1295 with a contractor who has been disqualified from bidding or
1296 proposing on state contracts of any state contracting agency.

1297 (c) Upon written request by the affected state contractor, bidder or
1298 proposer, the State Contracting Standards Board may reduce the
1299 period or extent of disqualification for a contractor, bidder or proposer

1300 if documentation supporting any of the following reasons for
1301 modification is provided to the board by the contractor, bidder or
1302 proposer:

1303 (1) Newly discovered material evidence;

1304 (2) Reversal of the conviction upon which the disqualification was
1305 based;

1306 (3) Bona fide change in ownership or management; or

1307 (4) Elimination of other causes for which the disqualification was
1308 imposed.

1309 Sec. 35. (NEW) (*Effective June 1, 2010*) (a) After reasonable notice and
1310 a hearing, conducted in accordance with the provisions of chapter 54
1311 of the general statutes, the department head of any state contracting
1312 agency may suspend any contractor, bidder or proposer for a period of
1313 not more than six months from bidding on, applying for or performing
1314 work as a contractor or subcontractor under, contracts with the state.
1315 The department head shall issue a written decision not later than
1316 ninety days after the conclusion of such hearing and state in the
1317 decision the reasons for the action taken and, if the contractor, bidder
1318 or proposer is being suspended, the period of such suspension. In
1319 determining whether to suspend a contractor, bidder or proposer, the
1320 department head shall consider the seriousness of the acts or omissions
1321 of the contractor, bidder or proposer and any mitigating factors. The
1322 department head shall send such decision to the contractor and the
1323 State Contracting Standards Board by certified mail, return receipt
1324 requested. Such decision shall be a final decision for purposes of
1325 sections 4-180 and 4-183 of the general statutes.

1326 (b) Causes for such suspension shall include the following:

1327 (1) Failure without good cause to perform in accordance with
1328 specifications or within the time limits provided in the contract;

1329 (2) A record of failure to perform or of unsatisfactory performance
1330 in accordance with the terms of one or more contracts, provided failure
1331 to perform or unsatisfactory performance caused by acts beyond the
1332 control of the contractor shall not be considered to be a basis for
1333 suspension;

1334 (3) Any cause the complainant state contracting agency determines
1335 to be so serious and compelling as to affect the responsibility of a state
1336 contractor, including suspension by another state contracting agency
1337 for cause; or

1338 (4) A violation of the ethical standards set forth in section 1-84, 1-86e
1339 or 1-101nn of the general statutes, as determined by the Citizen's Ethics
1340 Advisory Board.

1341 (c) The State Contracting Standards Board may grant an exception
1342 permitting a suspended contractor to participate in a particular
1343 contract or subcontract upon a written determination by the Board that
1344 there is good cause for such exception and that such exception is in the
1345 best interest of the state.

1346 (d) The department head of each state contracting agency shall
1347 conduct reviews of contractors and shall file reports pertaining to any
1348 of the reasons set forth in this section of this act that may be the basis
1349 for disqualification.

1350 Sec. 36. (NEW) (*Effective June 1, 2010*) (a) Any bidder or proposer on
1351 a state contract may contest the solicitation or award of a contract to a
1352 subcommittee of the State Contracting Standards Board which shall be
1353 appointed by the chairperson of the board and consist of three
1354 members, at least one of whom shall be a legislative appointee. Such
1355 contest shall be submitted, in writing, not later than fourteen days after
1356 such bidder or proposer knew or should have known of the facts
1357 giving rise to such contest and shall be limited to the procedural
1358 elements of the solicitation or award process, or claims of an
1359 unauthorized or unwarranted, noncompetitive selection process.

1360 (b) The filing of a contest pursuant to this section shall not, alone, be
1361 deemed to prohibit the award or execution of any such contested
1362 contract.

1363 (c) The assigned subcommittee of the State Contracting Standards
1364 Board may settle and resolve any such contest.

1365 (d) In the event such contest is not resolved by mutual agreement,
1366 the assigned subcommittee of the State Contracting Standards Board
1367 shall issue a decision, in writing, not later than thirty days after receipt
1368 of any such contest. Such decision shall:

1369 (1) Describe the procedure used by such agency in soliciting and
1370 awarding such contract;

1371 (2) Indicate such agency's finding as to the merits of such bidder or
1372 proposer's contest; and

1373 (3) Inform such bidder or proposer of the right to review.

1374 (e) A copy of such decision shall be provided to such bidder or
1375 proposer.

1376 Sec. 37. (NEW) (*Effective June 1, 2010*) (a) Any contractor, bidder or
1377 proposer may appeal a decision issued by a department head,
1378 pursuant to section 35 of this act, to the State Contracting Standards
1379 Board.

1380 (b) Any such appeal shall be filed with the board not later than
1381 fourteen days after such contractor, bidder or proposer receives a
1382 decision issued pursuant to section 35 of this act. Such bidder or
1383 proposer shall set forth the facts supporting its claim in sufficient
1384 detail for the State Contracting Standards Board to determine whether
1385 the procedural elements of the solicitation or award failed to comply
1386 with the code or whether an unauthorized or unwarranted,
1387 noncompetitive selection process was utilized.

1388 (c) Any appeal filed pursuant to subsection (b) of this section shall
1389 not be deemed to prohibit the award or execution of any such
1390 contested contract.

1391 (d) The State Contracting Standards Board shall create a three-
1392 member appeals review subcommittee, one of whom shall be a
1393 legislative appointment, which shall review any request filed pursuant
1394 to subsection (b) of this section and decide whether such solicitation or
1395 award was in compliance with the statutes and regulations concerning
1396 procurement, and whether allegations of an unauthorized or
1397 unwarranted, noncompetitive selection process have been
1398 demonstrated. A unanimous vote of such subcommittee shall be
1399 dispositive of any such appeal. A split vote of such subcommittee shall
1400 result in a review of the appeal by the full membership of the board
1401 which, by a vote of two-thirds of its members present and voting for
1402 such purpose, shall decide whether the solicitation or award of such
1403 contract was in compliance with the statutes and regulations
1404 concerning procurement and whether allegations of an unauthorized
1405 or unwarranted, noncompetitive selection process have been
1406 demonstrated.

1407 (e) Such appeals review subcommittee shall issue a written decision
1408 or take other appropriate action on each appeal not later than ninety
1409 days after the filing of such appeal. A written copy of any such
1410 decision shall be provided to such bidder.

1411 (f) In the event of an appeal review by the full board, the board shall
1412 issue a written decision or take other appropriate action on such
1413 appeal not later than ninety days after receipt of the appeal from the
1414 appeals review subcommittee. A written copy of any such decision
1415 shall be provided to such bidder or proposer.

1416 (g) In the event that the appeals review subcommittee or the board
1417 determines that a procedural violation occurred, or that allegations of
1418 an unauthorized or unwarranted, noncompetitive selection process
1419 have been substantiated, the board shall direct the state contracting

1420 agency to take corrective action not later than thirty days after the date
1421 of the subcommittee's or board's decision, as applicable.

1422 (h) In the event such appeal is found to be frivolous by the appeals
1423 review subcommittee or the full board, such frivolous appeal may
1424 serve as a basis for disqualification pursuant to section 34 of this act.

1425 (i) Any three members of the board may request a full board review
1426 of any contract deliberation or award process of a state contracting
1427 agency.

1428 (j) A decision issued by the board or appeals review subcommittee
1429 under this section shall be final and not subject to appeal under
1430 sections 4-180 and 4-183 of the general statutes.

1431 Sec. 38. (NEW) (*Effective June 1, 2010*) The State Contracting
1432 Standards Board shall issue a decision in writing or take other
1433 appropriate action on each appeal submitted pursuant to section 37 of
1434 this act. A copy of any decision shall be provided to all parties, the
1435 department head of the state contracting agency and the Chief
1436 Procurement Officer.

1437 Sec. 39. (NEW) (*Effective June 1, 2010*) If, prior to award, it is
1438 determined by the State Contracting Standards Board that a
1439 solicitation or proposed award of a contract by a state contracting
1440 agency is in violation of law, then the solicitation or proposed award
1441 shall be:

1442 (1) Cancelled; or

1443 (2) Revised to comply with the law.

1444 Sec. 40. (NEW) (*Effective June 1, 2010*) (a) If, after an award, it is
1445 determined by the State Contracting Standards Board that a
1446 solicitation or award of a contract by a state contracting agency is in
1447 violation of law:

1448 (1) If the person awarded the contract did not act in bad faith:

1449 (A) The contract may be ratified and affirmed by the state
1450 contracting agency, provided it is determined by the board that doing
1451 so is in the best interests of the state; or

1452 (B) The contract may be terminated and the person awarded the
1453 contract shall be compensated for the actual expenses reasonably
1454 incurred under the contract, plus a reasonable profit, prior to the
1455 termination.

1456 (2) If the person awarded the contract acted in bad faith:

1457 (A) The contract may be declared null and void; or

1458 (B) The contract may be ratified and affirmed if such action is in the
1459 best interests of the state, as determined by the State Contracting
1460 Standards Board, in writing, without prejudice to the state's right to
1461 such damages as may be appropriate.

1462 Sec. 41. (NEW) (*Effective January 1, 2009*) Not later than June 1, 2010,
1463 the State Contracting Standards Board shall adopt regulations, in
1464 accordance with the provisions of chapter 54 of the general statutes,
1465 that specify the process that shall be used to procure architectural and
1466 engineering services in design-bid-build procurements, construction in
1467 design-bid-build procurements and construction management at-risk.
1468 Such regulations shall include a description of the project delivery
1469 methods.

1470 Sec. 42. (NEW) (*Effective January 1, 2009*) Not later than June 1, 2010,
1471 the State Contracting Standards Board shall adopt regulations, in
1472 accordance with the provisions of chapter 54 of the general statutes,
1473 that require bid security for all competitive sealed bidding for
1474 construction contracts in a design-bid-build procurement when the
1475 price is estimated by the state contracting agency to exceed five
1476 hundred thousand dollars.

1477 Sec. 43. (NEW) (*Effective January 1, 2009*) Not later than June 1, 2010,
1478 the State Insurance and Risk Management Board established pursuant
1479 to section 4a-19 of the general statutes shall adopt regulations, in
1480 accordance with the provisions of chapter 54 of the general statutes, in
1481 consultation with the State Contracting Standards Board, that specify
1482 when a state contracting agency shall require proposers to provide
1483 appropriate errors and omissions insurance to cover architectural and
1484 engineering services under the project delivery methods established in
1485 regulations adopted pursuant to section 41 of this act.

1486 Sec. 44. (*Effective January 1, 2009*) Not later than June 1, 2010, the
1487 State Contracting Standards Board shall adopt regulations, in
1488 accordance with the provisions of chapter 54 of the general statutes, to
1489 establish the process to be used to procure consultant services, and in
1490 consultation with the Attorney General, the type of contract to be used
1491 to procure such consultant services.

1492 Sec. 45. (NEW) (*Effective January 1, 2009*) With respect to
1493 infrastructure facilities, not later than June 1, 2010, the State
1494 Contracting Standards Board, in consultation with the state contracting
1495 agencies and the Attorney General, shall adopt regulations, in
1496 accordance with the provisions of chapter 54 of the general statutes,
1497 requiring the inclusion in state contracts with any state contracting
1498 agency of clauses providing for adjustments in prices, time of
1499 performance, remedies, termination or other contract provisions
1500 necessary to protect the interests of the state.

1501 Sec. 46. (NEW) (*Effective January 1, 2009*) Not later than June 1, 2010,
1502 the State Contracting Standards Board shall adopt regulations, in
1503 accordance with the provisions of chapter 54 of the general statutes,
1504 concerning the procedure and circumstances under which a state
1505 agency may allow contract modification, change order, or contract
1506 price adjustment under a construction contract with the state in excess
1507 of fifty thousand dollars. Such regulations shall require that every
1508 contract modification, change order or contract price adjustment under

1509 a construction contract with the state in excess of fifty thousand dollars
1510 shall be subject to prior written certification by the fiscal officer of the
1511 state contracting agency or other agency responsible for funding the
1512 project or the contract, or other official responsible for monitoring and
1513 reporting upon the status of the costs of the total project budget or
1514 contract budget, as to the effect of the contract modification, change
1515 order, or adjustment in contract price on the total project budget or the
1516 total contract budget. Such regulations shall further provide that in the
1517 event the certification of the fiscal officer or other responsible official
1518 discloses a resulting increase in the total project budget or the total
1519 contract budget, the Agency Procurement Officer shall not execute or
1520 make such contract modification, change order, or adjustment in
1521 contract price unless sufficient funds are available or the scope of the
1522 project or contract is adjusted so as to permit the degree of completion
1523 that is feasible within the total project budget or total contract budget
1524 as it existed prior to the contract modification, change order, or
1525 adjustment in contract price under consideration provided, with
1526 respect to the validity, as to the contractor, of any executed contract
1527 modification, change order, or adjustment in contract price which the
1528 contractor has reasonably relied upon, it shall be presumed that there
1529 has been compliance with the provisions of this section.

1530 Sec. 47. (NEW) (*Effective January 1, 2009*) On or after January 1, 2011,
1531 the State Contracting Standards Board shall adopt regulations, in
1532 accordance with the provisions of chapter 54 of the general statutes, to
1533 apply the contracting procedures, as described in sections 18 to 45,
1534 inclusive, of this act, to each constituent unit of the state system of
1535 higher education. Such regulations shall take into consideration
1536 circumstances and factors that are unique to such constituent units.

1537 Sec. 48. (*Effective July 1, 2008*) The sum of seven hundred thousand
1538 dollars is appropriated to the State Contracting Standards Board, from
1539 the General Fund, for the fiscal year ending June 30, 2009, for the
1540 purpose of carrying out the duties of the State Contracting Standards
1541 Board, as established in sections 3 to 47, inclusive, of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2009</i>	New section
Sec. 2	<i>January 1, 2009</i>	New section
Sec. 3	<i>January 1, 2009</i>	New section
Sec. 4	<i>January 1, 2009</i>	New section
Sec. 5	<i>January 1, 2009</i>	New section
Sec. 6	<i>October 1, 2011</i>	New section
Sec. 7	<i>October 1, 2011</i>	New section
Sec. 8	<i>January 1, 2009</i>	New section
Sec. 9	<i>January 1, 2009</i>	New section
Sec. 10	<i>January 1, 2009</i>	New section
Sec. 11	<i>January 1, 2009</i>	New section
Sec. 12	<i>January 1, 2009</i>	New section
Sec. 13	<i>January 1, 2009</i>	New section
Sec. 14	<i>January 1, 2009</i>	New section
Sec. 15	<i>January 1, 2009</i>	New section
Sec. 16	<i>January 1, 2010</i>	New section
Sec. 17	<i>June 1, 2010</i>	New section
Sec. 18	<i>June 1, 2010</i>	New section
Sec. 19	<i>October 1, 2009</i>	New section
Sec. 20	<i>January 1, 2009</i>	New section
Sec. 21	<i>January 1, 2009</i>	New section
Sec. 22	<i>January 1, 2009</i>	New section
Sec. 23	<i>January 1, 2009</i>	New section
Sec. 24	<i>January 1, 2009</i>	New section
Sec. 25	<i>January 1, 2009</i>	New section
Sec. 26	<i>January 1, 2009</i>	New section
Sec. 27	<i>January 1, 2009</i>	New section
Sec. 28	<i>January 1, 2009</i>	New section
Sec. 29	<i>January 1, 2009</i>	New section
Sec. 30	<i>January 1, 2009</i>	New section
Sec. 31	<i>January 1, 2009</i>	New section
Sec. 32	<i>January 1, 2009</i>	New section
Sec. 33	<i>June 1, 2010</i>	New section
Sec. 34	<i>June 1, 2010</i>	New section
Sec. 35	<i>June 1, 2010</i>	New section
Sec. 36	<i>June 1, 2010</i>	New section
Sec. 37	<i>June 1, 2010</i>	New section

Sec. 38	<i>June 1, 2010</i>	New section
Sec. 39	<i>June 1, 2010</i>	New section
Sec. 40	<i>June 1, 2010</i>	New section
Sec. 41	<i>January 1, 2009</i>	New section
Sec. 42	<i>January 1, 2009</i>	New section
Sec. 43	<i>January 1, 2009</i>	New section
Sec. 44	<i>January 1, 2009</i>	New section
Sec. 45	<i>January 1, 2009</i>	New section
Sec. 46	<i>January 1, 2009</i>	New section
Sec. 47	<i>January 1, 2009</i>	New section
Sec. 48	<i>July 1, 2008</i>	New section